

Appl. No.09/898,740
Atty. Docket No. CM-2393
Amdt. dated December 16, 2003.
RCE and Response to final Office Action dated September 16, 2003
Customer No. 27752

REMARKS

As a matter of review, Claims 1 - 3 and 6 - 17 are pending in the present application. Claims 4 and 5 were previously cancelled without prejudice.

Rejections under 35 U.S.C. § 102:

Claims 1 - 3, 6, 8 - 9, and 13 - 15, and 17 are rejected under § 102(b) as being anticipated by U.S. Patent No. 4,876,023, issued to Dickenson et al. October 24, 1989 for the reasons of record stated on pages 3 and 4 of the Office Action.

The Office Action indicates on page 4 that "the presence of polyester in the substrate is not excluded from the comprising language of the present claims". Applicants respectfully traverse this rejection. Claim 1 in relevant part provides the following "*...wherein said fibers are polypropylene, polyethylene, polyamide, polyethylene tetrathalate or mixtures thereof...*". Section 2173.05(h) of the M.P.E.P. provides that "*if wherein R is a material selected from the group consisting of A, B, C and D*" is a proper limitation, then "*wherein R is A, B, C, or D*" shall also be considered proper." Such being the case as presently written, polyester would be excluded from the fibers of Claim 1. Hence, as the rejection over Dickenson has been overcome, Applicants respectfully request reconsideration and withdrawal of this rejection.

Rejections under 35 U.S.C. § 103:

Claims 1 - 3, 6, and 9 - 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,698,476, issued to Johnson et al. December 16, 1997 for the reasons of record stated on pages 3 and 4 of the Office Action. Applicants respectfully traverse this rejection.

Johnson teaches utilizing a support matrix which can be in the form of fiber balls, beads, clathrates, or sheets.[See Johnson, column 9, lines 7]. Johnson does not teach or suggest Applicants' claimed invention wherein Applicants' claimed invention requires *inter alia* utilizing a sachet defining a cavity wherein the laundry additive is located in the cavity. The benefit of the present invention over Johnson is that the present claimed invention not only effectively scavenges fugitive dyes and pigments, but also prevents the

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scavenged dyes and pigments from coming into physical contact with the wash items in the wash. One following the teachings of Johnson would not expect the same result.

Furthermore, referring to page 5 of the Office Action, the Office Action indicates that it disagrees with Applicants' arguments that the Johnson support matrix having an affinity for dyes wherein the fugitive dyes impart a color to the underlying support matrix teaches away from the present invention on the basis that column 8, lines 32-38 of Johnson indicate that the synthetic materials may be used as support matrices alone or in combination with other support matrices.

Applicants respectfully provide that in accordance with M.P.E.P section 2141.02, "*a prior art reference must be considered in its entirety, i.e.; as a whole including portions that would lead away from the claimed invention*" citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983). Hence, Applicants maintain that viewing the teaching of Johnson as a whole, the visual color change to the support matrix of Johnson teaches away from the present invention. [See Johnson, abstract, column 3, lines 18 - 40, and column 7, lines 41 - 65] as the fibers of the sachet of the present invention as claimed do not exhibit an affinity for fugitive dye or dirt. Hence, the instant invention is unobvious over Johnson.

Claims 7 - 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson as applied to the above claims, and further in view of U.S. Patent No. 5,698,476, issued to Van Leeuwen et al. June 15, 1999 for the reasons of record stated on page 5 of the Office Action. As discussed above, Johnson teaches a support matrix with an affinity for dyes such that fugitive dyes impart a color to the underlying support matrix. Van Leeuwen teaches a substantially water insoluble dye transfer inhibition agent. Even if these two references were combined, they still would offer no motivation or suggestion to one of ordinary skill in the art to comprise a laundry additive sachet comprised of fibers which do not exhibit an affinity for fugitive dyes and dirt. Therefore, as the claimed invention is not obvious over Johnson in view of Van Leeuwen, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

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SUMMARY

In light of the above remarks, it is respectfully requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103 and allow the claims remaining in the instant application.

Respectfully submitted,
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